

Remarks

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. Claims 7, 9-18 and 28-45 are pending in the application. New claim 45 is similar to claim 28, with the further feature that the suction pressure generator is manually actuated. This is supported, for example, at page 25, lines 21-23.

Claims 7, 9-18 and 28-44 have been rejected for obviousness double patenting over US 6,001,307. The issue is rendered moot by the submission of a Terminal Disclaimer herewith. Applicants are not conceding the absence of patentable distinction between the present claims and those of the '307 patent.

Claims 7, 9, 10, 12-18, 28, 30, 32, 33 and 38-42 have been rejected as anticipated by Qureshi. Applicants respectfully contend that the rejection fails to consider the invention as claimed and traverse the rejection.

Qureshi discloses a complex analytical machine that collects and analyzes samples. The machine includes plural metering and handling systems for delivering a sample to the analyzers and treating the sample as needed.

Page 3 of the Office Action states that the Qureshi device "is operated/manipulated by hand". However, even if the Qureshi machine as a whole is controlled by an operator, and even if this would be considered "operation" by hand, this does not meet or suggest the invention of claim 28. Claim 28 requires that the device comprises a main body dimensioned to be manipulated by hand. The fact that the overall Qureshi machine is operator controlled does not suggest the specific requirement that the main body itself be dimensioned to be "manipulated" by hand.

Claim 28 requires the main body to be dimensioned to be "manipulated" by hand. Claim 28 does not require it to be dimensioned to be "operated/manipulated" by hand as stated in the rejection, and the terms are not exchangeable. The Qureshi machine is large and complex. The main body of such a machine clearly is too large to be manipulated by hand. Applicants respectfully contend that the rejection gives inadequate recognition to the term "manipulated" as required by claim 28, and inadequate recognition to the connection between the dimensions of the main body and the manipulation by hand.

Moreover, claim 28 requires a drawing channel formed in the main body. An analytical section is disposed between a suction generator and the opening of the drawing channel. The analytical section communicates with the exterior of the device directly through the opening of the drawing channel. In contrast to the direct communication required by claim 28, Qureshi provides a complex set of metering and handling systems between the analytical sections and the exterior of the machine.

Therefore, claim 28 is neither disclosed nor even suggested by Qureshi.

Independent claim 45 is even further removed from Qureshi. Claim 45 requires a manually actuated suction generator. Qureshi's machine contains nothing like this.

Claim 41 also is further removed from the reference. Claim 41 requires that the device be designed to be discarded after a single use. The rejection states that the machine of Qureshi "could" be discarded after a single use. Even if the Qureshi machine "could" be discarded after a single use (Applicants respectfully contend that such an interpretation of the reference is strained at best in view of the complexity of the Qureshi machine), the machine certainly is not designed to be discarded after a single use as required by claim 41.

Claim 39 also is further removed from Qureshi. Claim 39 requires that the suction generator comprises a chamber formed in the main body in communication with the drawing channel. Such a structure is not found in Qureshi. Likewise, claim 40 requires a flexible cover on the main body, whereby changes in pressure in the chamber are created by movement of the cover. Again, Qureshi is not related to this structure.

Claims 11, 29, 31, 34-37, 43 and 44 have been rejected as obvious over Qureshi. Applicants respectfully traverse this rejection. These claims are not disclosed or suggested by Qureshi for the reasons set forth above for independent claim 28. In addition, contrary to the rejection, the dimensions set forth in claims 34-37 cannot be dismissed as "mere optimization". Rather, these dimensions are completely inconsistent with the machine of Qureshi, and thus further demonstrate the gross differences between the nature of the present invention and the machine of Qureshi.


Applicants request favorable reconsideration of this application in the form of a Notice of Allowance. The Examiner is invited to contact the undersigned at 612.371.5237 if any issues remain that prevent the allowance of this application.



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Respectfully submitted,

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